IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Arbitration Case No.295 of 2006

Date of Decision: July 11, 2007

Kanta Rani **....Petitioner**

through Mr.Tribhawan Singla , Advocate

v.

The Managing Director, Punjab State Civil Supplies Corporation and another **....Respondents**

through Ms.Deepali Puri, Advocate

CORAM: HON'BLE MR.JUSTICE VIJENDER JAIN, CHIEF JUSTICE

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE (ORAL)

Petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as, `the Act') has been filed by the petitioner for appointment of an Arbitrator. The arbitration clause is admitted between the parties which is to the following effect:-

> "9. In the event of any dispute arising between the parties the same shall be referred to the sole arbitrator to be appointed by the Managing Director and the award of the Arbitrator shall be final and binding to the parties. The Arbitration shall take place at Chandigarh."

The petitioner requested the respondents for appointment of an Arbitrator as per Clause 9 of the agreement. However, nothing was done on behalf of the respondents and the petitioner has filed the present petition under Section 11 of the Act.

Learned counsel appearing for the respondents has contended that there was no dispute which was required to be referred to the arbitration and, therefore, no Arbitrator was appointed by the respondents.

I have given my thoughtful consideration to the arguments advanced by learned counsel for the parties. The question of existence of the dispute has to be decided by the Arbitrator. The respondents cannot arrogate the right to themselves if there is an arbitration clause in the agreement which refers to that in the event of any dispute, the same has to be referred to the Arbitrator to be appointed by the Managing Director itself. Whether there is a dispute or not is a question which has also to be decided by the Arbitrator. Therefore, as the respondents have failed to appoint the Arbitrator and lost the right to appoint the Arbitrator, with the consent of the parties, Shri B.R.Bansal (a retired Additional District and Sessions Judge) is appointed as the sole Arbitrator to adjudicate upon all the disputes between the parties.

The Arbitrator shall fix his own fee.

The intimation of appointment be sent to the Arbitrator.

Parties to appear before the Arbitrator on 10.8.2007 at 11.00 A.M..

Petition stands disposed of.

(VIJENDER JAIN)
CHIEF JUSTICE

July 11, 2007

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